



**NURSING FACILITY
ENHANCED DIRECT CARE STAFF RATE**

**FISCAL YEAR 2021
REQUEST FOR REVISION REPORT
INSTRUCTIONS**

For assistance with the completion of these forms, contact the Customer Information Center at RAD-LTSS@hsc.state.tx.us or 512-424-6637.

For verification of the receipt of the electronic Request for Revision Report, contact the Rate Analysis Department Help Line at (512) 438-2680.

Purpose

The purpose of the Request for Revision Report (RFR) is to collect information for the Texas Health and Human Services Commission (HHSC) to use in determining if a facility met a higher staffing level for the reporting period than the level it met on its most recently available, audited report functioning as its fiscal year 2018 Cost or Accountability Report

Who must Complete this Report?

All facilities requesting a revision of their enrollment limitation for the fiscal year 2021 enrollment period (September 1, 2020 – August 31, 2021) must complete this report.

General Instructions

Except where otherwise noted, this Request for Revision Report is governed by all rules and instructions pertaining to the completion of your Texas Nursing Facility Cost Report. Refer to:

- Cost Determination Process rules at Title 1 of the Texas Administrative Code (TAC)
- §355.101-355.110;
- Direct Care Staff Rate Component rules at 1 TAC §355.308;
- Nursing Facility (NF) program-specific rules at 1 TAC §355.307;
- Training for the 2019 Cost Reports; and
- Specific Instructions for the completion of 2019 NF Cost Report.

Due Date

This report is due to HHSC by **July 31, 2020**. The RFR report is now online.

If the RFR report is not submitted by the due date, the enrollment limitation specified on the fiscal year 2021 "Enrollment Limitation List" will apply.

Website

An electronic version of the 2021 Request for Revision Report is available on our website at:

<https://rad.hhs.texas.gov/long-term-services-supports/nursing-facility-nf>

Once you access the website, scroll down to the heading "Rate Enhancement – Direct Care Staff Compensation", click on "2021 Rate Enhancement – Direct Care Staff Compensation Information". Under the heading "2021 Enrollment Limitations Information", locate and open the "2021 Request for Revision Report".

Reporting Period

The reporting period is September 1, 2019 through April 30, 2020. The report must be completed for the entire reporting period.

If your facility changed ownership where the Health and Human Services Commission (HHSC) approved a successor-liability-agreement (SLA) that transferred responsibility from the former owner to the new owner, this report might include units of service, staff

hours and expenses from both the contract in effect before the initiation of the SLA and the contract in effect after the initiation of the SLA.

Rounding

All reported monetary amounts should be rounded to the nearest whole number (without zeros included for "cents"). For example, round \$25.49 to \$25 or round \$25.50 to \$26. All reported times should be rounded to the nearest hour. For example, round 2 hours and 15 minutes to 2 hours and round 2 hours and 45 minutes to 3 hours. Reports submitted without proper rounding of monetary amounts and times may be returned for proper completion.

Accounting Method

All information submitted on the report must be based on an accrual method of accounting, see 1 TAC §355.105(b)(1), except where otherwise specified. Governmental entities may report on a cash basis or modified accrual basis.

Cost Allocation

Refer to the Cost Determination Process rules at 1 TAC §355.102(j) and §355.105(b)(2)(B)(v) for information concerning proper allocation methods and requirements for adequate allocation summaries. Note that costs must be directly costed whenever reasonably possible. FICA/Medicare, unemployment, worker's compensation premiums and paid claims and employee health paid claims may be allocated to direct care staff based on salaries or direct costed. Health insurance premiums, life insurance premiums and other employee benefits must be direct costed.

All staff times, salaries, wages and contract labor costs reported on page 3, the Request for Revision Report must be directly charged according to payroll records and timesheets. The only exception to this requirement is when nursing personnel works for both Medicaid-contracted and noncontracted NF beds. In such a situation, the hours worked and related costs must be allocated between contracted and noncontracted beds based upon units of service (i.e., resident days) and an acceptable allocation summary must be attached. See the definition of "Direct Care" for a further discussion of cost allocation.

Report Certification

Contracted providers must certify the accuracy of the Request for Revision Report submitted to HHSC. Contracted providers may be liable for civil penalties, criminal penalties and/or imprisonment if the Request for Revision Report is not completed according to HHSC requirements or if the information is misrepresented and/or falsified. Before signing the certification pages, carefully read the certification statements to ensure that the signers have complied with the reporting requirements. The Methodology Certification advises preparers that they may lose the authority to prepare future reports if reports are not prepared following all applicable rules, instructions and mandatory training materials.

NOTE: any report submitted without original signed Certification and Methodology Certification pages will be returned to the provider. Copies and faxes will not be accepted.

Definitions

Accrual Accounting Method

Method of accounting in which revenues are recorded in the period in which they are earned, and expenses are recorded in the period in which they are incurred. If a provider operates on a cash basis, it will be necessary to convert from cash to accrual basis for reporting purposes. Care must be taken to ensure that a proper cutoff of accounts receivable and accounts payable occurred both at the beginning and ending of the reporting period.

Amounts earned although not actually received and amounts owed to employees and creditors but not paid should be included in the reporting period in which they were earned or incurred. Allowable expenses properly accrued during the reporting period must be paid within 180 days after the end of the reporting period to remain allowable costs for reporting purposes. If accrued expenses are not paid within 180 days after the end of the reporting period, the expense is unallowable and should not be reported on the report.

Contract Labor

Labor provided by non-staff Registered Nurses (RNs), including Directors of Nursing (DONs) and Assistant Directors of Nursing (ADONs), Licensed Vocational Nurses (LVNs), including DONs and ADONs, Medication Aides and Certified Nurse Aides (CNAs), including Restorative Aides, performing nursing-related duties for Medicaid contracted beds. Non-staff refers to personnel who provide services to the facility intermittently, whose remuneration (i.e., fee or compensation) is not subject to employer payroll tax contributions and who perform tasks routinely performed by employees. Contract labor hours do not include consultant hours. Contract labor hours must be associated with allowable contract labor costs as defined in 1 TAC §355.103(b)(2)(C).

Contracted Provider

The business component with which HHSC contracts for the provision of NF services.

Controlling Entity

The individual or organization that owns the contracting entity.

Direct Care

The resident care provided by nursing personnel who carry out the physician's planned regimen of total resident care. Direct care providers including:

- Registered Nurses (RNs)
- Directors of Nursing (DONs)
- Assistant Directors of Nursing (ADONs)
- Licensed Vocational Nurses (LVNs)
- DONs and ADONs
- Medication Aides and Certified Nurse Aides (CNAs)
- Restorative Aides

To be allowable as direct care staff on this report, an individual must both meet the appropriate professional certification or licensure requirements and perform nursing-

related duties for Medicaid-contracted beds. The actual time (i.e., directly charged time) spent working in one of these positions for the nursing facility must be reported. Nursing personnel who work performing both nursing facility direct care functions and other functions must maintain continuous daily timesheets. Nursing facility direct care functions, include: nursing facility administrative functions or any functions for other business components such as a retirement center, residential care center, assisted living component, etc.) The daily timesheet must document, for each day, the person's start time, stop time, total hours worked, and the actual time worked (in increments of 30 minutes) performing nursing facility direct care functions and the actual time worked performing other functions. Allocation of time is not acceptable, only directly charged time is acceptable

The only exception to the "no allocation rule" is when nursing personnel works for both Medicaid-contracted and non-contracted licensed nursing facility beds. In such a situation, if the hours and costs cannot be reasonably direct costed in accordance with the Centers for Medicare and Medicaid Services (CMS) requirements for distinct reporting, allocate the hours worked, and associated costs between contracted and non-contracted beds based upon units of service (i.e., resident days) and attach an acceptable allocation summary.

Categorize staff members who perform more than one function in a facility without a differential in pay between functions at the highest level of licensure or certification they possess. If this highest level of licensure or certification is not that of an RN, LVN, Medication Aide, or CNA, the staff member is not to be included in the direct care staff cost center. The only exceptions to this rule are respiratory therapists in facilities receiving the ventilator and/ or pediatric tracheotomy supplemental payments (see "Common Questions/Issues" #10). Administrators and assistant administrators are not direct care staff and should not be included on this report.

Required documentation of direct care staff hours and compensation includes, but is not limited to, proof of licensure and certification status, time sheets (for staff performing more than one function or working for more than one entity), job descriptions, and payroll records.

Common Questions/Issues Regarding the Proper Reporting of Direct Care Staff

1. The following functions are considered direct care functions if performed by a Director of Nursing (DON), Assistant Director of Nursing (ADON), RN, LVN, Medication Aide or CNA: completion of the MDS assessment forms; development of care plans; attendance at in-service training; and the nursing administration aspects of a DON or ADON's job including the provision of classroom-based in-service training.
2. The following functions are not considered direct care functions: paid feeding assistants, medical records; central supply; someone other than the DON or ADON presenting classroom-based in-service training; quality assurance nursing consultant from central office; transcribing physicians orders; and time spent filling

water pitchers and changing linen by individuals other than RNs, LVNs, Medication Aides and CNAs.

3. Does paid time off for direct care staff (e.g., paid vacation, paid sick leave) count as direct care time for this report? Yes, but if it is associated with an individual performing more than one function, it needs to be allocated. If a staff person "cashes in" his/her paid time off instead of taking leave, the time associated with this leave is not to be reported on this report. The compensation received as a result of "cashing in" is treated as a bonus and should be reported in the period in which it is subject to payroll taxes.
4. Pay for being "on-call" is reported as salaries by employee type but only on-call hours actually worked performing direct care functions can be reported as time. For example, if an RN was on call for an entire weekend and received \$200 as on-call compensation, the total \$200 would be reported as salaries. If the RN was required for 3 hours to aid staff while on-call during the weekend, only 3 hours would be reported as paid hours and not the full 48 hours of the weekend.
5. Graduate Vocational Nurses (GVNs) should be reported as LVNs.
6. Unpaid overtime hours that meet all the other requirements to be reported as direct care staff time may be reported if they are properly documented. Unpaid overtime hours should be reported at the highest level of licensure or certification the individual working the overtime possesses. For example, if an RN DON works four hours unpaid overtime after the end of her shift, filling in for an absent Medication Aide, the four hours should be reported as RN time. Since the overtime is unpaid, no associated compensation should be reported. Compensation costs may not be imputed for unpaid overtime hours. Volunteer time should not be included in this report.
7. Paid overtime that meets all the other requirements to be reported as direct care staff time may be reported if it is properly documented. Paid overtime hours and compensation should be reported at the highest level of licensure or certification the individual working the overtime possesses. For example, if an RN DON works four hours paid overtime after the end of her shift, filling in for an absent Medication Aide, the four hours and associated compensation should be reported as RN hours and compensation.
8. Nurses that are also schedulers, facility-based quality assurance nurses and CNAs that drive vans must spend at least 50% of their time on direct care functions in order to report 100% of their paid hours and salaries as direct care. To document the 50+%, the employee should perform a one-month functional study (i.e., maintain daily timesheets for an entire month). Complete a functional study at least once a year. Otherwise, they must maintain daily, continuous timesheets to directly charge as direct care only those hours/salaries applicable to direct care functions. Time spent driving a van is not considered direct care time.
9. A nurse whose job function is charting is providing direct care.

10. Respiratory therapists providing direct care in facilities receiving the ventilator and/or pediatric tracheotomy supplemental payments may be counted as LVNs.
11. Nurse aides in the Nurse Aide Training and Competency Evaluation Program (NATCEP) can only be included on this report if they have completed at least the first 16 hours of NATCEP training. Any time worked before 16 hours of NATCEP training are completed may not be included in this report (e.g., time spent as a hospitality aide or receiving the first 16 hours of training).
12. Quality assurance nurse consultants from the central office are not considered direct care staff.
13. Physical, occupational and speech therapists, activities staff and social work staff are not direct care staff.
14. Staff members performing more than one function in a facility without a differential in pay between functions are categorized at the highest level of licensure or certification they possess. If this highest level of licensure or certification is not that of an RN, LVN, Medication Aide, or CNA, the staff member is not to be included in the direct care staff cost center but rather in the cost center where staff members with that licensure or certification status are typically reported.
15. Nursing facility administrators and assistant administrators are not included in the direct care cost center.
16. Time spent working on a non-contracted wing is not direct care time.

Medicaid-Contracted Beds

Licensed nursing beds contracted with HHSC to provide nursing facility services to Medicaid residents. Medicaid residents can occupy these contracted beds including Medicare residents (if the beds are dually certified) and Other residents (e.g., private pay, private insurance, V.A., etc.).

Related Party

A person or organization related to the contracted provider by blood/marriage, common ownership, or any association, which permits either entity to exert power or influence, either directly or indirectly, over the other. In determining whether a related-party relationship exists with the contracted provider; the tests of common ownership and control are applied separately. Control exists where an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. The existence of an immediate family relationship will create an irrefutable presumption of relatedness through control or attribution of ownership or equity interests where the significance tests are met. The following persons are considered immediate family for reporting purposes:

1. Husband and wife

2. Natural parent, child and sibling
3. An adopted child and adoptive parent
4. Stepparent, stepchild, stepsister, and stepbrother
5. Father-in-law, mother-in-law, brother-in-law, son-in-law, sister-in-law, and daughter-in-law
6. Grandparent and grandchild
7. Uncles and aunts by blood or marriage
8. First cousins
9. Nephews and nieces by blood or marriage

Contracted providers are required to disclose all related-party information for all allowable costs reported.

Cover Sheet

Contracted Provider Identification

Each provider must complete the Contract Provider Identification section. Enter the name, address, phone number, fax number, and email address of the contracted provider.

Mailing Address

Enter the mailing address for the Contracted Provider.

Contracting Entity Information

Enter the Contracting Entity Name, the physical address, phone number, fax number and email address of the contracted provider.

Location of Accounting Records

Enter the address of the location of your company's accounting records.

Contact Information

Enter the contact name, title, organization, address, phone number, fax number and email address for the contact for your company. The contact person is the employee of the provider, contracting entity, controlling entity, parent company, sole member, governmental body or related-party management company that is designated to be contacted concerning information reported on the RFR. The contact person should be able to answer questions about the contents of your contract's RFR that arise during the HHSC Rate Analysis Department's edit process and the HHSC analysis process.

Preparer Information

Enter the contact name, title, organization, address, phone number, fax number and email address for the preparer of this report.

General Information

Texas County Code in Which Accounting Records are Located

Report the 3digit county code for the Texas County in which the accounting records and supporting documentation used to prepare this compensation report is located. Select your county code from the drop-down menu. If the accounting records are located outside the state of Texas, enter "999".

Preparer of this report attended the required annual Report Training last year.

Check "Yes" if the Preparer attended the required training. Cost Report training attendance will be verified by HHSC Rate Analysis. Reports submitted by preparers who have not completed the proper cost report training will not be considered acceptable reports. Such reports will not be processed until the required cost report training has been completed.

Total number of other State of Texas contracts

If the contracting entity holds any other contracts that are participating in the Attendant or Direct Care Staff Compensation Rate Enhancement, report the total number of contracts in the box provided and list the type of contract (i.e., PHC, CLASS, NF, RC, DBMD) with its 9-digit contract number in the space provided. If you are completing this report for a group of contracts, list all the contracts that are participating within the group and any additional contracts that are participants in the Direct Care Staff Rate Enhancement.

Address to send all future correspondence for this report

Select the address to which you want all future correspondence concerning this report to be mailed. The two choices correspond to the addresses of the contracted entity and the contracted provider.

9-digit Contract Number Prior to Any Successor Liability Agreement

If this report includes units of service, staff hours and expenses from a contract in effect prior to the initiation of an SLA with HHSC; enter the 9-digit NF contract number for the contract in effect prior to the initiation of the SLA.

HHSC NF 4-digit Provider Number

Enter the 4-digit HHSC NF facility number.

Number of facility beds LICENSED for NURSING care by HHSC at the end of your reporting period.

Number of facility beds CONTRACTED for Medicaid NURSING care by HHSC at the end of your reporting period.

Owner-Employee or Other Related-Party Expenses

Check "Yes" if you are including the cost of owner-employees or other related party employees functioning as attendants on this report.

Check "Yes" if you are including the cost of services purchased from a related party individual or organization on this report.

Number of beds licensed or contracted for the entire reporting period.

Check "Yes" if the reported number of beds licensed or contracted were for the entire reporting period.

Nurse Aide Training and Competency Evaluation Program (NATCEP)

Check "Yes" if you have excluded all the time worked before sixteen hours of training were completed as well as associated salaries and wage from this report.

In-House NATCEP

Check "Yes" if the facility provides an In-House NATCEP.

All Other State Contracts List

If you indicated you had other State of Texas contracts, report the contract number and select the type of program from the drop-down list.

Direct Care Services**Paid Hours**

Report employee hours worked who provide direct care services to residents in Medicaid-contracted beds during your reporting period in the appropriate item (i.e., 101, 103, 105 or 107). Direct care providers include:

- Registered Nurses (RNs)
- Directors of Nursing (DONs)
- Assistant Directors of Nursing (ADONs)
- Licensed Vocational Nurses (LVNs)
- including DONs and ADONs
- Medication Aides and Certified Nurse Aides (CNAs)
- Restorative Aides

Hours worked include paid time off such as paid vacation time, paid sick time and paid all-purpose time. Round all reported hours to the nearest whole hour.

Salaries and Wages

Report accrued direct care staff salaries and wages who provide direct care services to residents in Medicaid-contracted beds during your reporting period. Direct care providers include:

- Registered Nurses (RNs)
- Directors of Nursing (DONs)
- Assistant Directors of Nursing (ADONs)
- Licensed Vocational Nurses (LVNs)
- including DONs and ADONs
- Medication Aides and Certified Nurse Aides (CNAs)
- Restorative Aides

Salaries and wages include overtime, bonuses, and taxable fringe benefits. Round all reported monetary amounts to the nearest whole dollar. If reporting accrued/taken vacation and/or accrued/taken sick leave not yet subject to payroll taxes, these expenses must be reported as "Other Employee Benefits".

Contract Labor Hours

Report the hours worked by contracted RNs, LVNs, Medication Aides, and CNAs. See the DEFINITIONS section for a definition of reportable contract labor. Round all reported hours to the nearest whole hour.

Contract Labor Compensation

Report the costs incurred for contracted nursing services performed by contracted RNs, LVNs, Medication Aides, and CNAs. Do not include nursing services consultants, medical records consultants or contracted medical records services. See the DEFINITIONS section for a definition of reportable contract labor. Round all reported monetary amounts to the nearest whole dollar.

Payroll Taxes – FICA and Medicare

Report both FICA and Medicare taxes for NF direct care staff.

Payroll Taxes - State and Federal Unemployment

Report both federal (FUTA) and state (TUCA) unemployment expenses for NF attendants and other staff delivering NF attendant services.

Workers' Compensation – Insurance (WCI) Premiums

Report the WCI premiums paid to your commercial insurance carrier for NF attendants and other staff delivering NF attendant services, if your contract, any of its controlling entities, or its parent company/sole member subscribe to the Workers' Compensation Act, . Premium costs include the base rate, any discounts for lack of injuries, any refunds for prior period overpayments, any additional modifiers and surcharges for experiencing high numbers of injuries (such as being placed in a risk pool).

There are alternate insurance premium costs that can be reported in this item if your contract, any of its controlling entities, or its parent company/sole member is not a subscriber to the Workers' Compensation Act. . Acceptable alternate insurance policies include industrial accident policies and other similar types of coverage for employee on-the-job injuries. Health insurance is not worker's compensation and should be reported in item for Employee Benefits - Health Insurance. If your commercially-purchased insurance policy does not provide total coverage and has a deductible and/or coinsurance clause, any deductibles and/or coinsurance payments made by the employer on behalf of the employee would be considered paid claims (i.e., self-insurance) and must be reported in item Worker's Compensation - Paid Claims. WCI premium expenses may be allocated based upon salaries; in such a situation, an acceptable allocation summary must be attached.

Workers' Compensation - Paid Claims

Report medical claims paid for employee on-the-job injuries for Direct care staffs and other staff delivering NF attendant services. Report the number of claims paid in this item, if you were not a subscriber to the Workers' Compensation Act (i.e., traditional workers' compensation insurance policy), and you paid workers' compensation claims for employee on-the-job injuries for the staff whose salaries and wages are reported above,

. The contributions made to this banking account are not allowable if you maintained a separate banking account for the sole purpose of paying your workers' compensation claims for employee on-the-job injuries (i.e., a nonsubscriber risk reserve account), . Paid claims may be direct costed or allocated based upon payroll. Submit an acceptable allocation summary if paid claims are allocated.

Employee Benefits - Health Insurance

Report employer-paid health insurance for direct care whose salaries and wages are reported on this RFR. Employer-paid health insurance premiums must be direct costed. Paid claims may be allocated based on salaries or direct costed. Submit an acceptable allocation summary if paid claims are allocated.

Employee Benefits - Life Insurance

Report employer-paid life insurance for direct care staff whose salaries and wages were reported on this cost report. NF attendants and other staff delivering NF attendant services whose salaries and wages are reported above. Employer-paid life insurance premiums must be direct costed.

Employee Benefits - Other Benefits

Report any employer-paid disability insurance and retirement contributions for NF attendants and other staff delivering NF attendant services whose salaries and wages are reported above. These benefits must be direct costed the contracted providers' unrecovered cost of meals and room-and-board furnished to direct care staff, uniforms, staff personal vehicle mileage reimbursement Do not report job-related training reimbursements and job certification renewal fees as benefits; unless they are subject to payroll taxes. If they are subject to payroll taxes report them as salaries and wages. Other than mileage reimbursement for client transportation, costs that are not employee benefits and are not subject to payroll taxes are not to be reported on the RFR; these costs may be reported on the providers' cost report in the appropriate items. In the space provided, describe the amount and type of each benefit comprising the total amount reported. Employee benefits must be reported in accordance with 1 TAC §355.103(b)(1)(A)(iii)(II).

Days of Service

Medicaid Days of Service in Medicaid-Contracted Beds

For each Resource Utilization Group (RUG III) group enter the Medicaid days of service provided during the 9/1/19 – 4/30/20 reporting period. Report Fee-For-Service, Medicaid-Hospice and Star+Plus and Dual-Eligible days of service separately.

Report "pending" residents in the category you believe they are most likely to be classified by HHSC eventually. For example, if you have a "pending" resident and you are uncertain as to whether they will meet financial eligibility, report their days of service in Item 350 ("Other days of service in Medicaid-contracted beds"). If you have a "pending" resident who you know met financial eligibility and all other HHSC requirements and you are just waiting for the client's claim to clear through the CMS system, report the resident's days of service in the RUG group indicated by their MDS.

Days for which residents were charged for “room hold” or “bed hold” are not considered as days of service and are not to be counted as resident days. All reported Medicaid days of service will be reconciled by HHSC staff against HHSC CMS paid claims data.

Medicare Days of Service in Medicaid-contracted Beds

Enter the Medicare days of service in Medicaid-contracted beds (i.e., dually-certified beds) provided during the reporting period. Do not include Medicare days of service in Medicare-only beds.

Other Days of Service in Medicaid-contracted Beds

Enter the Other days of service in Medicaid-contracted beds (e.g., private, private insurance, VA, etc.) provided during the reporting period. Do not include Other days of service in non-Medicaid-contracted beds.

Total Days of Service in Medicaid-contracted Beds

The sum of days of service in Medicaid-contracted beds is automatically calculated based on the days of service entered.

Days of Service in Non-Medicaid-contracted Beds

Enter the days of service in non-Medicaid-contracted beds. Include Other residents in non-Medicaid beds and Medicare residents in Medicare-only beds.

Total Days of Service for reporting period 9/1/19 – 4/30/20

The sum of days of service in Medicaid-contracted Beds and Non-Medicaid contracted Beds is automatically calculated.

Medicaid Days of Service Qualifying for Supplemental Payments for Ventilator or Pediatric Tracheotomy Care)

For residents qualifying for the Ventilator or Pediatric Tracheotomy Supplements, include their days of service by RUG group in RUGs RAD – PCE as appropriate and also enter the days they qualified for a supplement. For example, count a RUG RAD resident who also qualified for the Ventilator-Continuous Supplement as both a RUG RAD resident and a Ventilator-Continuous resident.

NOTE ON COMPLETION OF SCHEDULES: Complete only those schedules that have an associated item reported in the body of the report. For example, if the report does not include any related-party expenses, do not complete Schedule B, etc.

Schedule A: Reserved for Future Use

Schedule B: Related Party Transactions

See 1 TAC §355.102(i) for specific details and requirements on related-party transactions.

Report the purchases of services from related organizations or related individuals by the provider or the providers’ central office as related-party transactions on Schedule B.

Expenses in related-party transactions are allowable at the cost to the related organization; however, the cost must not exceed the price of comparable services that could be purchased elsewhere in an arm's length transaction. The related organization's costs include all reasonable costs, direct and indirect, incurred in the furnishing of services to the provider. The intent is to treat the costs incurred by the supplier as if the contracted provider itself incurred them. Therefore, if a cost would not be allowed if incurred by the contracted provider itself, it would be similarly not be allowed to the related organization.

See the DEFINITIONS section for a definition of related-party.

EXCEPTIONS TO THE RELATED-PARTY RULE

An exception (1 TAC §355.102(i)(5)) is provided to the general rule applicable to related organizations if the contracted provider demonstrates on each report that specific criteria have been met. If **all the conditions** of this exception occur, the charges by the related-party supplier to the contracted provider for services are allowable costs. **The contracted provider must submit documentation either before or upon submission of the cost to demonstrate that all the following criteria occur:**

- The supplying organization is a bona fide separate organization.
- A majority of the supplying organization's business activity is transacted with other organizations not related to the contracted provider.
- There is an open, competitive market for the type of services, furnished by the related organization.
- The services are those that commonly are obtained by entities such as the contracted provider from other organizations and are not a basic element of contracted client care.
- The charge to the contracted provider is comparable to open market prices and does not exceed the charge made to others.

If Medicare has made the determination that a related-party situation does not exist or has granted an exception to the related-party definition, and you desire that HHSC accept that determination, you must submit a **copy of the applicable Medicare determination**, along with **evidence supporting the Medicare determination for the current reporting period** with each affected report. If the exception granted by Medicare is no longer applicable due to changes in circumstances of the contracted provider or because the circumstances do not apply to the contracted provider, HHSC can choose not to accept the Medicare determination. See 1 TAC §355.102(i)(5).

SECTION 1A. PURCHASES AND LEASES FROM A RELATED PARTY

Complete Section 1A if services were purchased from a related organization. If services were purchased from a related individual such as an individual owner, partner or stockholder, see Section 1B.

COMPLETION OF COLUMNS A THROUGH F

Column A (Name of Related Party/Organization) - Enter the name of the related party or organization. If the contracted provider is a proprietorship, the related

organization could be the individual owner rather than a separate corporation. If the contracted provider is a partnership, the related organization could be one of the partners. Refer to the DEFINITIONS section for information regarding related parties.

Column B (Percentage of Ownership) - Enter the percent of the contracted provider owned by the related party. For example, if the contracted provider is a 5050 partnership and the related party in Column A was one of the partners, the percentage of common ownership would be 50%. If the contracted provider is one "branch" of a central corporation and the related party in Column A was the central office, the percentage of common ownership would be 100%. If the contracted provider is a corporation and the related party in Column A was a stockholder with 2% of the stock, then the percentage of common ownership would be 2%.

The percentage of common ownership may be 0% if the related-party is deemed related due to control (including being a member of the contracted provider's Board of Directors) or the existence of an immediate family relationship (other than a spousal relationship in a community property state in which case the percentage of common ownership would be the same as the owner's/stockholder's). In situations where the percentage of common ownership is 0%, a properly cross-referenced attachment should explain how the individual meets the criteria as a related party.

Column C (Description of Purchased or Leased Items/Goods/Services) - Describe the services purchased from the related party.

Column D (Cost to Provider) - This amount should be the exact cost incurred (and paid within the acceptable accrual period) by the contracted provider for the purchased or leased services.

Column E (Cost to Related Party/Organization) - This amount should be the exact cost to the related organization for purchased or leased services.

SECTION 1B: SERVICES PURCHASED FROM RELATED INDIVIDUALS

Report in this section the purchase of services from a related-party individual who is not an employee of the contracted provider. If the related individual is an employee of the contracted provider, a controlling entity, or other related entity, do not complete this section, but rather a complete Schedule C.

COMPLETION OF COLUMNS A THROUGH F

Column A (Name of Related-Party Individual) - Enter the name of the person who is the related party. If the contracted provider is a proprietorship, the related party could be the individual owner. If the contracted provider is a partnership, the related party could be one of the (individual) partners. List only individuals in this column; report services purchased from related organizations in Section 1A, not 1B.

Refer to the DEFINITIONS section for information regarding related parties.

Column B (Percentage of Ownership) - Enter the percent of the contracted provider owned by the related individual. If the contracted provider is a 5050 partnership and the related party in Column A was one of the partners, the percentage of common ownership would be 50%. If the contracted provider is a corporation and the related party in Column A was a stockholder with 4% of the stock, then the percentage of common ownership would be 4%.

The percentage of common ownership may be 0% if the related-party is deemed related due to control (including being a member of the contracted provider's Board of Directors) or the existence of an immediate family relationship (other than a spousal relationship in a community property state. In this case the percentage of common ownership would be the same as the owner's/stockholder's). In situations where the percentage of common ownership is 0%, a properly cross-referenced attachment should explain how the individual meets the criteria as a related party.

Column C (Description of Service Performed) - Enter a description of the service performed.

Column D (Total Hours Worked in Program) - Enter the total hours the related individual worked in the program during the entire reporting period. Itemized invoices and/or timesheets should substantiate the amount reported in this column. Dividing the total compensation received by the total hours worked should result in the average compensation per hour for the services performed.

Column E (Total Compensation Earned) - Enter the amount of compensation the related-party individual received during the reporting period for the services described in Column C.

Schedule C

This schedule must be completed by every contracted provider that has an owner-employee or other related-party employee working in the direct care area regardless of whether the owner-employee or other related-party employee received any compensation for their services during the year.

For reporting purposes, a direct care employee who meets the definition of a related party or an owner who is a sole proprietor, a partner owning 5% or more of the partnership, or a corporate stockholder owning 5% or more of the outstanding stock of the contracted provider must report their compensation on a Schedule C.

If no compensation was paid, received, or properly accrued during the reporting period for an owner-employee or a related-party employee, provide an explanation in Part 1 - allocation method on why no compensation is being reported. Also, enter "0" as the amount in Part 2 - Associated Services Salaries & Wages section.

An organizational chart must be submitted electronically indicating the owner-employee's or the related-party employee's name and position within the organization. When organizational structures are composed of several corporations and the owner-employee and/or other related-party employee is associated with more than one of the corporations, it is necessary to submit at least two organizational charts: one picturing the entire organizational structure of various corporations and one detailing the organizational structure of the corporation providing the services covered by the specific cost report.

Allowable Compensation (see 1 TAC §355.103(b)(2))

Allowable compensation for an owner-employee or other related-party employee is governed by the principles that the services rendered are necessary functions, that the compensation is for the reasonable value of services rendered, that the compensation is not based on profitability, and that the services performed do not duplicate those performed by another employee of the nursing facility.

A function is deemed necessary when, if the owner or related party had not performed said function, the nursing facility would have had to employ another person to perform that function. A function must pertain to direct or indirect activities in the provision or supervision of contracted resident services, to be necessary.

The test of reasonableness requires that the compensation of owner-employees and other related-party employees be such an amount as would ordinarily be paid for comparable services performed by nonowners or unrelated parties. Reasonable compensation is limited to the fair market value of services rendered by the owner-employee or other related-party employee in connection with resident care. Education and experience of the owner are pertinent only as they relate to the job being performed and the services being rendered.

PART 1 COMPENSATION

Complete a separate Schedule C for each employee who meets the definition of an owner-employee or other related-party employee.

Name

Indicate the name (Last Name, First Name, and Middle Name/Initial) of the owner-employee or the related-party employee.

Title

Indicate the title of the owner-employee or other related-party employee. The title must correspond to the title indicated on the organizational chart attached to the report.

Position Type

Identify the type of position filled by the owner-employee or other related-party employee.

Location of Position within Organizational Structure

Indicate the location of the owner-employee's or other related-party employee's position within the organizational structure by checking the appropriate box (i.e., facility,

contracting entity, a controlling entity, or parent company/sole member/related-party management company). The location of the position should relate to the organizational chart(s) submitted.

Description of Duties

Describe the duties performed by the owner-employee or other related-party employee as they relate to the specific report or attach and properly cross-reference a copy of the person's written job description and provide a summary of how those duties relate to the specific report. See 1 TAC §355.105(b)(2)(B)(xi).

Relationship to Provider

Indicate the owner-employee's or other related-party employee's relationship to the contracted provider. If the schedule is being completed for an owner-employee, indicate that the employee is an owner and describe the type of ownership (e.g., owner sole proprietor; owner % partner; owner % stockholder). If the schedule is being completed for a related-party employee other than the owner, identify the relationship (e.g., wife of owner sole proprietor; daughter-in-law of % partner; brother of % stockholder). If the schedule is being completed for a member of the Board of Directors (related through control), identify that fact in this item.

Allocation Method

If the services provided by this employee benefited more than the contract for which the report is being completed or if the employee's salary is reported on more than one line item on this report, the salary must be either directly charged or allocated to all benefiting business entities or line items. If the salary has been directly charged, you need to state this in item 10 and describe the basis upon which the compensation has been directly charged to this report or between line items. For example, you might state that the salary has been directly charged based upon daily timesheets, attach a copy of a completed timesheet, attach a copy of the written instructions applicable to the completion of the timesheet, report the total number of hours recorded by all timesheets during the reporting period (the denominator), report the total number of hours directly chargeable to the specific report based upon the results of the daily timesheets (the numerator), and show the calculation of the percentage of compensation directly charged to this report (a percentage with two decimal places)

NOTE: For direct care staff, time must be directly charged, and allocation of time is not acceptable. The only exception to the "no allocation rule" is when nursing personnel work for both Medicaid-contracted and noncontracted licensed nursing facility beds. In such a situation, salaries and wages must be allocated between contracted and noncontracted beds based upon units of service (i.e., resident days).

Percentage of Ownership

If the schedule is being completed for an owner-employee, enter the percentage of ownership for that employee. If the schedule is being completed for a related-party employee who has no ownership interest, indicate "None" as the ownership percentage. If the schedule is being completed for a related-party employee who is the spouse of an owner in a community property state, indicate the same ownership percentage as the owner.

Number of Hours Worked

Report the number of hours worked during the reporting period by the employee in order to earn the total compensation. In other words, if the total compensation was divided by the hours worked, the result would be the employee's average compensation per hour. If the employee were a fulltime, salaried employee, the number of hours reported would be 2,080 (40 hours x 52 weeks) unless documented by daily timesheets to support hours in excess of this full-time equivalency.

PART 2 ALLOCATION OF COMPENSATION

Breakdown of Total Compensation - Provide a breakdown by business component of how the total allowable compensation reported was allocated or directly charged.

The reported compensation for the owner-employee or other related-party employee must include the compensation received from all business entities (components) that benefit from his/her effort or work. If the business component has a state of Texas vendor/provider number, report the number and program name in the business component blank. If the business component does not have a state of Texas vendor/provider number, report the business component's name or a description of the business component.

Compensation should be directly charged to each business entity based on the level of effort involved in providing services to or working for the entity (and supported by daily timesheets). Direct care staff salaries and wages must be directly charged.

Total compensation includes regular salary, overtime pay, bonuses, and any other forms of compensation subject to payroll taxes, as well as any accrued compensation that had not been paid to the employee at the end of this reporting period. (Note: Accrued expenses must be paid within 180 days after the end of the reporting period in order to be allowable for reporting purposes.)

Total compensation should include compensation received from all business entities:

- Which provide similar services, regardless of the organizational structure
- Which are organized under a single corporate "umbrella"
- Within which the employee provides long-term services, regardless of whether the business entity has a HHSC contract (e.g., Medicare home health); and/or
- That are contracted with the State of Texas.

Total Compensation - The amount indicated as the Total Compensation is automatically calculated based on the amounts reported for each business component.

% of Total Hours - Report the percentage of the employee's total hours (item 9) directly charged or allocated to this report. Report the percentage with two decimal places. If the

percentage of hours reported in item 13 is different from the percentage of compensation reported in item 12, please provide a detailed explanation for the variance. If additional pages are required, please cross-reference any attachments

% of Total Compensation - Report the percentage of the total employee compensation from item 8 that has been directly charged or allocated to this report. Report the percentage with two decimal places (i.e., 33.33%).

Associated Services Salaries & Wages - Select the service type from the drop-down list and report the salaries and wages of the owner-employee or other related-party employee.

SCHEDULES D, E, F, G & H: RESERVED FOR FUTURE USE

Schedule I: Bed Additions and Deletions

Complete Schedule I if your facility had any change in the number of beds licensed for nursing care by HHSC or in the number of beds contracted for Medicaid nursing care during its reporting period. Attach documentation from HHSC supporting each reported change. Documentation should be in the form of a letter from HHSC indicating the number of licensed and/or contracted beds after the change and the effective date of the change.

Certification Pages

Report Certification

This page must be completed and signed electronically by an individual legally responsible for the conduct of the provider, such as an owner, partner, Corporate Officer, Association Office, governmental official or L.L.C. member.

Multi-contract organizations participating as individuals may submit one RFR containing original signatures. All other reports submitted by the multi-contract provider can be submitted with copies of the original certification page. For multi-contract organizations that choose this option:

- The original certification page must include a list of the 9-digit contract numbers of the reports being submitted with copies of the original certification page; and
- The copies of the original certification page must indicate the 9-digit contract number of the report being submitted with the original certification page.

Methodology Certification

This page must be signed electronically by the person identified on the cover page of this report as PREPARER. This person must be the individual who actually prepared the report or who has primary responsibility for the preparation of the report for the provider. Signing as PREPARER carries the responsibility for an accurate and complete report prepared following applicable methodology rules and instructions. Signing as PREPARER signifies that the preparer is knowledgeable of the applicable methodology rules and instructions and that the preparer has either completed the report himself/herself in accordance with those rules and instructions or has adequately supervised and thoroughly instructed his/her employees in the proper completion of the report. The ultimate responsibility for the report lies with the person signing as PREPARER. If more than one person prepared the report, an executed Methodology Certification page may be submitted by each preparer. Preparers should make note of the additional statement on Page 8, notifying preparers that they may lose their authority to prepare future reports if the reports are not prepared following all applicable rules, instructions and mandatory training materials.

STATE OF TEXAS COUNTY CODES

| <u>County Name / Code</u> |
|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Anderson 001 | Crockett 053 | Hays 105 | Mason 157 | Shackelford 209 |
| Andrews 002 | Crosby 054 | Hemphill 106 | Matagorda 158 | Shelby 210 |
| Angelina 003 | Culberson 055 | Henderson 107 | Maverick 159 | Sherman 211 |
| Aransas 004 | Dallam 056 | Hidalgo 108 | McCulloch 160 | Smith 212 |
| Archer 005 | Dallas 057 | Hill 109 | McLennan 161 | Somervell 213 |
| Armstrong 006 | Dawson 058 | Hockley 110 | McMullen 162 | Starr 214 |
| Atascosa 007 | Deaf Smith 059 | Hood 111 | Medina 163 | Stephens 215 |
| Austin 008 | Delta 060 | Hopkins 112 | Menard 164 | Sterling 216 |
| Bailey 009 | Denton 061 | Houston 113 | Midland 165 | Stonewall 217 |
| Bandera 010 | DeWitt 062 | Howard 114 | Milam 166 | Sutton 218 |
| Bastrop 011 | Dickens 063 | Hudspeth 115 | Mills 167 | Swisher 219 |
| Baylor 012 | Dimmit 064 | Hunt 116 | Mitchell 168 | Tarrant 220 |
| Bee 013 | Donley 065 | Hutchinson 117 | Montague 169 | Taylor 221 |
| Bell 014 | Duval 066 | Irion 118 | Montgomery 170 | Terrell 222 |
| Bexar 015 | Eastland 067 | Jack 119 | Moore 171 | Terry 223 |
| Blanco 016 | Ector 068 | Jackson 120 | Morris 172 | Throckmorton 224 |
| Borden 017 | Edwards 069 | Jasper 121 | Motley 173 | Titus 225 |
| Bosque 018 | Ellis 070 | Jeff Davis 122 | Nacogdoches 174 | Tom Green 226 |
| Bowie 019 | El Paso 071 | Jefferson 123 | Navarro 175 | Travis 227 |
| Brazoria 020 | Erath 072 | Jim Hogg 124 | Newton 176 | Trinity 228 |
| Brazos 021 | Falls 073 | Jim Wells 125 | Nolan 177 | Tyler 229 |
| Brewster 022 | Fannin 074 | Johnson 126 | Nueces 178 | Upshur 230 |
| Briscoe 023 | Fayette 075 | Jones 127 | Ochiltree 179 | Upton 231 |
| Brooks 024 | Fisher 076 | Karnes 128 | Oldham 180 | Uvalde 232 |
| Brown 025 | Floyd 077 | Kaufman 129 | Orange 181 | Val Verde 233 |
| Burleson 026 | Foard 078 | Kendall 130 | Palo Pinto 182 | Van Zandt 234 |
| Burnet 027 | Fort Bend 079 | Kenedy 131 | Panola 183 | Victoria 235 |
| Caldwell 028 | Franklin 080 | Kent 132 | Parker 184 | Walker 236 |
| Calhoun 029 | Freestone 081 | Kerr 133 | Parmer 185 | Waller 237 |
| Callahan 030 | Frio 082 | Kimble 134 | Pecos 186 | Ward 238 |
| Cameron 031 | Gaines 083 | King 135 | Polk 187 | Washington 239 |
| Camp 032 | Galveston 084 | Kinney 136 | Potter 188 | Webb 240 |
| Carson 033 | Garza 085 | Kleberg 137 | Presidio 189 | Wharton 241 |
| Cass 034 | Gillespie 086 | Knox 138 | Rains 190 | Wheeler 242 |
| Castro 035 | Glasscock 087 | Lamar 139 | Randall 191 | Wichita 243 |
| Chambers 036 | Goliad 088 | Lamb 140 | Reagan 192 | Wilbarger 244 |
| Cherokee 037 | Gonzales 089 | Lampasas 141 | Real 193 | Willacy 245 |
| Childress 038 | Gray 090 | LaSalle 142 | Red River 194 | Williamson 246 |
| Clay 039 | Grayson 091 | Lavaca 143 | Reeves 195 | Wilson 247 |
| Cochran 040 | Gregg 092 | Lee 144 | Refugio 196 | Winkler 248 |
| Coke 041 | Grimes 093 | Leon 145 | Roberts 197 | Wise 249 |
| Coleman 042 | Guadalupe 094 | Liberty 146 | Robertson 198 | Wood 250 |
| Collin 043 | Hale 095 | Limestone 147 | Rockwall 199 | Yoakum 251 |
| Collingsworth 044 | Hall 096 | Lipscomb 148 | Runnels 200 | Young 252 |
| Colorado 045 | Hamilton 097 | Live Oak 149 | Rusk 201 | Zapata 253 |
| Comal 046 | Hansford 098 | Llano 150 | Sabine 202 | Zavala 254 |
| Comanche 047 | Hardeman 099 | Loving 151 | San Augustine 203 | |
| Concho 048 | Hardin 100 | Lubbock 152 | San Jacinto 204 | |
| Cooke 049 | Harris 101 | Lynn 153 | San Patricio 205 | |
| Coryell 050 | Harrison 102 | Madison 154 | San Saba 206 | |
| Cottle 051 | Hartley 103 | Marion 155 | Schleicher 207 | |
| Crane 052 | Haskell 104 | Martin 156 | Scurry 208 | |